

Atty. Docket No. JP920010018US1  
(590.172)

**REMARKS**

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Please note the fact that July 8, 2007, fell on a Sunday ensures that this paper is timely filed as of today, Monday, July 9, 2007 (the next succeeding day which is not a Saturday or Sunday).

The outstanding Office Action (March 8, 2007) is the fourth Office Action to issue in this case. In the first Office Action (June 23, 2005), Claims 1-17 were rejected, *inter alia*, under Section 102(b) over Koblenz et al. In the second Office Action (December 16, 2005), Claims 1-17 were rejected under Section 102(b) over Wallace et al. and a Section 101 rejection was made. In the third (final) Office Action (September 11, 2006), Claims 1-7, 11, and 15-17 were allowed and the Section 101 rejection was maintained against Claims 8-10 and 12-14. Applicants submitted an Amendment After Final on December 11, 2006 addressing the Section 101 rejection. As the Office had not responded to the Amendment After Final within two months, Applicants filed a Request for Continued Examination on February 11, 2007, to have the Amendment After Final entered.

In the outstanding Office Action (March 8, 2007), the Office -- without explanation -- withdrew the Section 101 rejection of Claims 8-10 and 12-14, withdrew the allowability of Claims 1-7, 11, and 15-17, and rejected all claims under Section 103(a) as being unpatentable over Wallace et al. in view of Moore et al. On May 30, 2007, Applicants' counsel conducted a telephone interview with the Examiner in which the present application was discussed. It was agreed that Moore was disqualified as prior art due the presence of a common assignee with the instant application.

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Applicants have filed herewith a Response but have not amended any of the claims. Applicants respectfully request withdrawal of the rejections made by the examiner in the outstanding Office Action because Moore and the claimed invention "were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." 35 U.S.C §103(c)(1); *Manual of Patent Examining Procedure*, § 706.02(I)(1). Both Moore and the instant application were assigned to IBM when the instantly claimed invention was made. Therefore, Applicants respectfully submit that Moore is disqualified as prior art and cannot be used in combination with Wallace to form an obviousness rejection under 35 U.S.C. § 103.

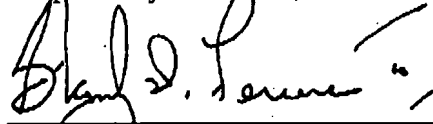
Furthermore, to the extent that Wallace has been cited against the instant application, Applicants respectfully incorporate herein the arguments and remarks previously submitted on May 16, 2006, clearly distinguishing the instant application from Wallace. Following the submission of these remarks, the Examiner withdrew the rejection of the claims under Section 102(b) over Wallace.

In view of the foregoing, it is respectfully submitted that the application, including claims 1-17, is presently in condition for allowance. By virtue of the Section 103(a) rejection standing as the sole rejection of all the claims, it is respectfully submitted that claims 1-17 are presently allowable. Notice to that effect is hereby earnestly solicited.

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In the unlikely event there are any further issues in this application, the courtesy  
of a telephone interview is requested prior to the issuance of another Office Action.

Respectfully submitted,



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